

United States of America
Department of Transportation
Federal Aviation Administration
Washington, D.C. 20590

Regulatory Docket

In the matter of the Petition of
Pilots to the Rescue, Inc.

No. FAA-2021-

For an exemption from 14 CFR §61.113(c)
of the Federal Aviation Regulations.)

PETITION FOR EXEMPTION

The Petitioner, Pilots to the Rescue, Inc. (“Pilots to the Rescue”), pursuant to the provisions of the Federal Aviation Regulations, General Rule-Making Procedures, 14 CFR §11.61, §11.71, §11.73, petition the Administrator to grant a temporary exemption from 14 CFR §61.113(c) to the extent necessary to allow for reimbursement of its volunteer pilots for fuel costs incurred in conducting charitable flights. The Rule presently provides: “A private pilot may not pay less than the pro-rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.”

Part 11 of Title 14 of the Code of Federal Regulations (14 CFR Part 11) sets forth the requirements for a petition for exemption from regulations. In the pertinent parts, 14 CFR Part 11 requires that the petitioners document: (1) Reasons for the petition for exemption; (2) Why granting of the petition would be in the public interest; (3) Reasons why granting the exemption would not adversely affect safety, or how the exemption would provide an equivalent level of safety

Reason for Petition

The petitioner is a not-for-profit volunteer pilot organization (VPO) with approval from the Internal Revenue Service as a charitable organization, pursuant to Internal Revenue Code (IRC) Section 501(c)(3) (see annexed Ex. A). The petitioner’s primary purpose is to serve the general public by arranging free air transportation to be provided by others for remote rescue of veterinary patients and providing access to veterinary treatment for domestic and wild animals.

Under SEC. 821(a) of the FAA Modernization and Reform Act of 2012,

Reimbursement of Fuel Costs.--Notwithstanding any other law or regulation, in administering section 61.113(c) of title 14, Code of Federal Regulations (or any successor regulation), the Administrator of the Federal Aviation Administration

shall allow an aircraft owner or operator to accept reimbursement from a volunteer pilot organization for the fuel costs associated with a flight operation to provide transportation for an individual or organ for medical purposes (and for other associated individuals), if the aircraft owner or operator has-

- (1) volunteered to provide such transportation; and
- (2) notified any individual that will be on the flight, at the time of inquiry about the flight, that the flight operation is for charitable purposes and is not subject to the same requirements as a commercial flight.

(b) Conditions to Ensure Safety.--The Administrator may impose minimum standards with respect to training and flight hours for single-engine, multi-engine, and turbine-engine operations conducted by an aircraft owner or operator that is being reimbursed for fuel costs by a volunteer pilot organization, including mandating that the pilot in command of such aircraft hold an instrument rating and be current and qualified for the aircraft being flown to ensure the safety of flight operations described in subsection (a).

Pilots to the Rescue works closely with sister organizations including Angel Flight East and Veteran's Airlift Command to provide transportation to medical patients in need. Correspondence to this effect is included herewith as Exhibits B.

Pilots to the Rescue has been cited for its participation in the rescue and transportation of cold water-stunned sea turtles. (see annexed Ex C). This occurs when the animals swim up in the northward-flowing Gulf Stream and become marooned in the Northeast by autumn. Absent assistance, they invariably die of hypothermia. Additionally, Pilots to the Rescue flew endangered wolves for relocation this past May for the Wolf Conservation Center (see annexed Ex D). Each of these are federally supported efforts.

The petitioner receives no compensation for such flights which it provides free of charge. When the direct beneficiaries of the services provided by the VPO are wild animals, the cost burden falls entirely on the volunteer pilots. The missions flown are often long, carefully mapped multi-leg cross-country endeavors and fuel costs are the lion's share of the expense. The petitioner seeks a temporary exemption from 14 CFR § 61.113(c) in order to attract more qualified pilots to the VPO and to increase the number of wild animal rescue and relocation flights it can undertake.

Public Benefit

The petitioner believes the requested exemption is in the public interest, because it will greatly facilitate its ability to ensure that endangered wildlife receives necessary care. Much of the risk faced by the nation's wild creatures arises from the encroachment of mankind or as a result of industrialization and Anthropocene climate change. The cost of the resulting extinctions is a paucity of natural diversity and the general degradation of the only world we know. It is therefore the very least we can do to address some of this damage.

The FAA has an established precedent of granting fuel exemptions to VPOs that provide air transportation to medical patients in need. Angel Flight of New England, Inc. received

Exemption No.10360, Angel Flight MidAtlantic/ Airlift Hope of America/Mercy Medical Airlift together received Exemption 10009, Mercy Flights Southeast, Inc Exemption No. 10513A, Patient Airlift Services received Exemption 10294. The Petitioner also provides these services and its ability will be enhanced by the grant of the within application.

But Pilots to the Rescue is not limited to assisting human patients. By assisting other not-for-profits tasked with rescue and relocation of threatened and endangered animals, Pilots to the Rescue embraces a philosophy of stewardship akin to the Environmental Protection Agency or the National Parks Service. Obviously, veterinary patients are null sources of revenue. Furthermore, wild animals have no masters, so the financial burden of their preservation falls upon the volunteers who help. An exemption from 14 CFR §61.113(c) would promote the goal of providing essential veterinary and transportation to wild creatures because it would ease that financial burden on the pilot-volunteers and thus encourage their participation.

Safety

Pilots to the Rescue recognizes that at the center of any request for relief from regulatory provisions is the requirement that the petitioner demonstrate that a grant of exemption will not adversely affect safety or that an equivalent level of safety will be maintained. The petitioner maintains its aircraft in top condition, as demonstrated by airframe and mechanical logbooks. The NFP employs modern flight management and every volunteer pilot is an IFR rated, medium-time private pilot with updated training. Pilots have current instrument proficiency, a minimum of 500 hours, currency and qualification in the aircraft they fly, and at least a second-class medical certificate. The petitioner would expect any exemption to be accompanied by the usual mandates for training and licensure. The level of safety would be no less than the highest standard provided under the current rules.

The FAA published training and certification guidelines for exemptions on February 13, 2013. In so doing, it states:

The FAA has determined this activity can be conducted safely with limits applied to the organizations, pilots, and aircraft. Beginning in 2010, the FAA issued several exemptions to charitable medical flight organizations granting relief from the requirements of § 61.113(c). The exemptions contain conditions and limitations that are intended to raise the level of safety for these flights. These conditions and limitations include:

1. Developing of a pilot qualification and training program;
2. Authenticating pilots' FAA certification;
3. Requiring flight release documentation;
4. Imposing minimum pilot qualifications (flight hours, recency of experience, etc.);
5. Requiring a 2nd class FAA medical certificate;
6. Requiring the filing of an instrument flight plan for each flight;
7. Restricting pilots to flight and duty time limitations;
8. Requiring mandatory briefings for passengers;

9. Imposing higher aircraft airworthiness requirements; and
10. Requiring higher instrument flight rules (IFR) minimums.

Petitioner anticipates complying with every one of these requirements.

Conclusion

The public good will be served by the grant of the exemption. Medical transportation has a long history of receiving appropriately granted exemptions to 14 CFR §61.113(c) because the public good clearly benefits from patients being able to access treatment. Public safety will in no way be compromised and an exemption to this VPO will actually further help meet the goals of the federal government with respect to maintaining the natural environment. The within Petition differs from prior petitions for exemption from 14 CFR §61.113(c) wherein that petitioner provided services only for the transportation of domestic animals whereas Pilots to the Rescue provides transportation for rare and endangered animals in connection with other projects. For instance, HelpFourPaws, Inc. was denied exemption (10194), as was Pittsburgh Aviation Animal Rescue Team (18056a) because the benefit to domestic animals was not deemed sufficient cause to deviate from the statute. However, the Administration made an exception for Turtles Fly Too, Inc. under Exemption 107787 stating, *inter alia*, that the value of preserving the natural resource represented by the rare sea turtles was different than that the benefit to mere house pets (see annexed Ex. E).

The grant of an exemption to Pilots to the rescue from 14 CFR §61.113(c) will serve the public good in a manner consistent with the ongoing efforts of other branches of the federal government, will not compromise safety or the confidence of the public in the regulation of general aviation.

*CAUSE FOR ACCELERATING DECISION

Petitioner submits that good cause exists for accelerating the granting of this exemption notwithstanding the requirement of CFR 14 §11.63(b)(2)(d) for at least 120 days before the effective date of exemption after filing of the petition. These grounds are as stated, *supra*, that this petition for exemption is in the public interest and given the urgency of need, the acceleration of the determination is necessary and appropriate. The winter is coming and with it the need to move sea turtles trapped in New England to warmer climes.

Respectfully submitted



Adam Silverstein, Esq.
Counsel to Pilots to the Rescue, Inc.

SEP 17, 2021